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MEMORIAL

TO THE

FIFTIETH CONGRESS

OF THE

UNITED STATES.

PRESENTED BY THE STATE BOARD OF FORESTRY OF CALIFORNIA.

SACRAMENTO:
STATE OFFICE : : : J. D. YOUNG, SUPT. STATE PRINTING.
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RESOLUTIONS

ADOPTED BY THE

AMERICAN HORTICULTURAL ASSOCIATION.

To the _____

I am directed by the California State Board of Forestry to call your attention to the following resolution passed at the meeting of the American Horticultural Association, held in San José, on the twentieth of January, 1888. Also to the annexed reports of the State Board, and its Engineer, and Expert. It is hoped that you will recognize the vital importance to the country of this subject, and give it the consideration which it deserves.

SANDS W. FORMAN,
Secretary.

WHEREAS, It is now known that a due proportion of forest, varying from one fourth to one fifth of the area of a given locality, is essential to secure the largest agricultural returns and the maintenance of the largest population in the whole district; and that deforestation exceeding this proportion diminishes the total output of crops, even though the cultivated area be increased, and consequently diminishes the capacity of the land to support population; and whereas, excessive tree destruction, without regard to the maintenance of the reproductive power of the forest, causes irregularity and uncertainty in the rainfall, diminished wood and lumber supply for the future, diminished humidity of the air, diminished health of the people—especially through the production of malarial disease—diminished springs and summer flow of streams used for navigation and irrigation, increased extremes of heat and cold, of drought and flood, and, in mountainous countries like California, causes the production of torrents that carry debris from the denuded water-sheds to cover and destroy fertile valley lands below; and whereas, the present Government land laws furnish neither an adequate means of carrying on the lumber industry, nor any means for protecting the water-sheds, and consequently, the irrigators and inland navigators, nor the climate and crops of the country; and whereas, timber lands are being rapidly taken up by questionable means, frequently in the interests of foreign capitalists; therefore, be it

Resolved, That the American Horticultural Society, in convention assembled, calls the attention of Congress to this subject, of vital importance to the country, and requests that all government timber lands be at once withdrawn from sale or entry, and that the Mining Act granting timber to locators be repealed until a definite survey shall have ascertained what portions of the public forests should be permanently reserved for the best interests of the nation, and that when such forest areas shall be definitely ascertained, they shall be set apart and managed in accordance with such regulations as have been suggested and verified by the experience of other nations. The questionable means necessary to obtain large bodies of timber lands, now so energetically practiced, together with the waste and destruction, and fires, makes this or a similar measure one of urgency.

Respectfully submitted.

ABBOT KINNEY, California.
T. S. HUBBARD, Fredonia, New York.
J. M. SMITH, Green Bay, Wisconsin.
T. V. MUNSON, Dennison, Texas.
J. CLARK RIDPATH, Greencastle, Indiana.

PRESENTATION OF FACTS

BY THE

STATE BOARD OF FORESTRY OF CALIFORNIA.

The State Board of Forestry respectfully represents that owing to defects in the present land and mining laws of the United States, unscrupulous persons are enabled to acquire temporary possessory right and title to lands chiefly valuable for timber, without first purchasing them from the Government of the United States, and that this Board is powerless to prevent the wholesale destruction of the forests of California, by such parties in possession under color of title, unless existing mining and land laws are amended and greater powers to prosecute depredators on unoccupied lands belonging to the United States are conferred on this Board by special Act of Congress.

It is, therefore, of the greatest importance that a new Act "for the protection of the forests of California," free from all defects of former ones, should be passed immediately by Congress, and that the greatest care be exercised and provisions made in it to prevent hereafter the possibility of such or similar frauds and practices as are committed at present under existing laws, and also to segregate and place the remaining timber lands of the United States, in the State of California, under the exclusive control and protection of the State Board of Forestry, with ample powers to prosecute all offenders and depredators on the public domain.

The greater part of all depredations on the public domain, under color of title, and the consequent destruction of the forests, is committed under Section 2330 of the Revised Statutes, and the Act of June 3, 1878, providing for the sale of timber lands in California, Oregon, and Washington Territory, and State of Nevada.

Section 2330 of the Revised Statutes permits the locating of one hundred and sixty acres of mineral lands, conforming to legal subdivisions thereunder. S. S. Burdett, formerly Commissioner of the General Land Office, Washington, D. C., under date of October 21, 1875, rules and issues the following instructions, to E. F. George, Recorder, Lewis District, Lander County, Nevada:

> *Locators* of mining claims, their heirs and assigns, have "*the exclusive right of possession* to the surface ground included within the lines of their location, upon compliance with the laws of the United States and State, territorial, and local regulations governing possessory titles, where no adverse claim exists on the tenth of May, 1872. The parties having such right of possession to the surface, HAVE ALSO THE RIGHT OF POSSESSION TO THE TIMBER GROWING THEREON."
>
> S. S. BURDETT,
> Commissioner General Land Office.
>
> Washington, D. C., October 21, 1887.
>
> See *Kopp's Land Owner*, vol. 2, p. 114.

Under this ruling parties in the mining counties at the cost of "*one dollar*," Recorder's fee, obtain possessory title and *exclusive right* to the timber growing on one hundred and sixty acres of land, and do allow the owners of sawmills or corporations, for a royalty of perhaps 50 cents or $1 per tree or cord of firewood, to cut all the timber on the premises so located.

As soon as all timber is cut, a new tract is located, by the same parties, in the same manner, and the practice is repeated by them as long as saw logs or cordwood is in demand, deriving therefrom quite a revenue. This practice is carried on to a great extent in the mining counties.

If this ruling of the honorable Commissioner were modified to limit the possessory right of the miner to only so much of the timber required and necessary for the actual working of the mine, or the running and building of works appertaining thereto, and the law make it a felony for the locator to sell or allow other parties to cut timber or cordwood within the limits of lands located by him as mineral, it would be a great step towards stopping this fraudulent practice and wholesale destruction of timber.

Under the Act entitled "An Act for the sale of timber lands in the States of California, Oregon, Nevada, and Washington Territory," it is provided in

SECTION 1. That surveyed public lands of the United States within the States of California, Oregon, Nevada, and in Washington Territory, not within military, Indian, or other reservations of the United States, *chiefly valuable for timber but unfit for cultivation*, and which have not been offered at public sale, according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres, to any person or association of persons, at the minimum price of $2 50 per acre, etc.

And in Section 2, it is provided:

That any person desiring to avail himself of the provisions of this Act shall file with the Register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is UNFIT FOR CULTIVATION and *valuable chiefly for timber* or stone, etc., *which statement must be verified by the oath of the applicant.*

From this it will be seen that the provisions of the above entitled Act apply only to lands "*valuable for timber, but* UNFIT FOR CULTIVATION," fixing the purchase price for such lands at $2 50 per acre, leaving thereby the best and most valuable class of timber lands, viz.: lands "VALUABLE FOR TIMBER AND FIT FOR CULTIVATION ALSO," open to preëmption and homestead entry, and the provisions of Section 2, demanding "oath" as to the character of the land, prevent parties willing to purchase and to pay to the Government the $2 50 per acre from obtaining title, because they cannot swear conscientiously that lands, the soil of which is rich enough to produce the growth of giant sequoias, enormous sugar pines, and all the other more valuable species of coniferous trees, and are generally well watered, are *unfit* for cultivation.

Being, therefore, open to preëmption, land rings, lumber companies, and owners of sawmills are not slow to avail themselves of the opportunities offered and obtain possession of the choicest timber lands for the insignificant sum of $3 per one hundred and sixty acres, the amount of the fee demanded for filing the claim in the proper office.

Under the plea of clearing the land for agricultural purposes, they proceed at once to cut the timber, but fail to make any attempt at cultivation, and leave the land long before the expiration of the thirty-three months, despoiled of all valuable timber.

Other causes contributing to the destruction of the timber are THE FIRES caused by stockmen and sheepherders, either purposely to clear the country from brush and undergrowth, or accidentally. The *shake-splitters*, who pay no respect to lines or claims and generally cut several of finest-looking sugar pines before one is found which will split, causing thereby a great waste of the most valuable timber; and last but not least, *the Chinamen*,

who of late years have committed great havoc, cutting down in great numbers the balsam or silver fir, for no other purpose than to obtain the balsam, or gum of this tree, which is shipped by them to San Francisco, or presumably for medicinal purposes, to China. The *tan bark* gatherers who destroy the tan-bark oak for the bark alone, leaving the entire tree, with this exception, to rot, or in fires to contribute to the burning of the whole forest. All of which fraudulent and nefarious practices committed on lands belonging to the United States the State Board of Forestry is unable to prevent for lack of powers vested in the Board.

As the means of preserving the remnants of the forests of California, it is suggested that an Act of Congress may be passed, and provide:

First—For the immediate suspension of the preëmption laws and the timber Act of June 3, 1878.

Second—To instruct the United States Surveyor-General for California to classify and segregate by actual survey, from the public domain, all remaining unoccupied lands of the United States in the State of California, *chiefly valuable for timber, fit and unfit for cultivation.*

Third—For the amendment of the mining Act so that timber cannot be sold by locators.

Fourth—For the permanent withdrawal from purchase or entry of all lands so segregated and surveyed by the United States Surveyor-General for California.

Fifth—All lands so segregated and withdrawn from purchase or entry to be placed under the exclusive protection of the State Board of Forestry.

Sixth—Full and special powers to be conferred to the Board to prosecute depredators on lands placed under the protection of the Board. And as a further means to perpetuate and protect the growth of timber it is respectfully suggested that a clause may be inserted, in all agricultural patents hereafter granted, making it mandatory to the patentee, that on land requiring the clearing of timber for agricultural or other purposes, a certain number of trees be left standing on each legal subdivision.

We herewith transmit the Act in relation to forestry already introduced into Congress at the suggestion of this Board, which we think should be amended to conform to our riper experience as herein recommended. We also respectfully call attention to the rapid entry and purchase of the forest lands of California, now at flood tide, which we deem a sufficient reason for making these or similar measures ones of urgency. We also transmit the preliminary reports of two of our forest officers, setting forth the conditions now prevailing in our forests.

ABBOT KINNEY, Chairman.
JAMES BETTNER.
JNO. D. SPRECKELS.

REPORT

OF THE

SPECIAL AGENT OF THE STATE BOARD OF FORESTRY.

San Francisco, January 28, 1888.

To the State Board of Forestry:

Gentlemen: Acting under instructions from this Board, I have traveled extensively throughout the State of California for the purpose of securing evidence that would lead to the conviction of such persons as were trespassing on our timber lands.

Everywhere I have observed indications of the indiscriminate destruction of forests, especially in the mountainous regions. This destruction is the result of several agencies: Wealthy lumber companies boldly erect their mills on Government lands, and then denude the forests of their timber; sheep men occupy those lands for pasturage during the summer months, and when leaving in the fall, set fires throughout the whole country, desolating and destroying large areas of valuable timber; shake-makers recklessly cut down large numbers of trees, utilizing but a small portion of the wood laid waste; wood-cutters annually remove thousands of cords of firewood, disposing of it at the nearest market. In fact, the vast area of timber land devastated by the ravages of fire and the axe of the woodman, is something appalling.

Attempts have been made to collect evidence against these depredators, and to prosecute them in the Courts. Such efforts have almost invariably proved complete failures. It is exceedingly difficult to collect evidence sufficiently strong to warrant a prosecution. Witnesses dislike and refuse to turn informers concerning the acts of a neighbor. Oftentimes they are equally as liable themselves.

Again, although timber cutting is prohibited by statute, decisions have been rendered which make the law a nullity and conviction impossible; or, if conviction be had, a nominal penalty is too frequently the only penalty inflicted by the Court. Much time and money has been spent in working up cases against timber depredators, only to have all proceedings finally dismissed. People will not obey these laws, juries will not sustain them, Judges will not enforce them.

Such a condition of affairs is certainly discouraging. It does not enable us to preserve our forests; it does not hold out any hope of relief for the future; it does not permit us to strike at the root of the evil. Nothing but a total reconstruction of the timber laws by an Act of Congress, can afford us protection from the destructive waste of the timber depredator, and the wanton carelessness of the fire setter. That immediate relief is necessary can easily be shown.

The value of all building material, especially that of lumber, has greatly increased within the past few years. This is due to the large immigration into this State, the settling up of the rural districts, and the phenomenal growth of towns and cities. Timber is no longer a commodity possessing

but little or no value, and should not be considered the property of him who first appropriates it. Yet, this idea, sanctioned by long custom, prevails generally throughout our mountainous country. That such an error should be corrected is incontrovertible. Our forests are becoming too valuable to longer suffer these continued depredations without compensation for the loss.

Again, California presents a far different condition of affairs from any other State in the Union. With us it is not simply a question of timber preservation by reason of its own intrinsic value, but a question of more serious and far-reaching moment. Our forests play an important part in the economy of our resources. They are found, for the most part, distributed over our extensive mountain ranges. These mountains constitute a great water-shed for the interior valleys of this State. They are large water-bearing districts, the resources of which would be materially diminished if denuded of trees. Within their confines exist vast bodies of snow, which under the protecting shade of our coniferous forests, gradually melt away throughout the long summers, feeding the numerous streams that have their origin in those regions. Dependent on this water supply are the great irrigation districts of California. Formerly consisting of dry and arid plains over which cattle roamed and found an uncertain and precarious living, now a region fast coming into prominence as the most productive of our agricultural lands.

Great as is the increase in our material prosperity by reason of the introduction of irrigation, it yet sinks into insignificance when compared with the possibilities which the future holds out before us. The denudation of our forest lands means the diminishing of our original water sources, the crippling of our irrigation districts, and irreparable loss to the agricultural interests of this State. We cannot afford to longer jeopardize our welfare by submitting to this impending danger. Calamity will certainly overtake us should it continue to exist. Now is the time to take such necessary steps as will preclude the possibility of this contingency. Congress should grant such relief as will secure our continued prosperity. Most of the timber land referred to is yet owned by the Government. If not reserved from entry, it will soon be appropriated by eager purchasers and far-seeing speculators. The necessity for immediate action is urgent. A complete reservation of all timber lands as yet unentered should be made by Congress. Provision could then be made for the proper preservation of such lands. This is the only step that will secure to us the relief demanded. It is to be hoped that Congress will give the matter its favorable consideration.

Respectfully submitted.

EDWARD L. COLLINS,
Special Agent State Board of Forestry.

REPORT

OF THE

Engineer of the California State Board of Forestry.

SAN FRANCISCO, January 26, 1888.

To the Honorable Members of the California State Board of Forestry:

GENTLEMEN: In accordance with instructions received fron your honorable Board, on the twenty-third instant, I herewith submit a preliminary report on "forest destruction," and "forest preservation," in California.

The three chief causes of destruction to our forests, which a careful supervision would check and prevent, are "forest fires," "the pasturage of browsing animals upon forest lands," and "illegal timber cutting."

The forests of California have suffered serious losses from forest fires.

Nearly every year since the settlement of the State, destructive fires have raged throughout the mountains, unheeded and unchecked, destroying thousands of acres of our finest timber.

The yearly loss caused by fire alone, is immense.

In 1880 it was estimated that an area of over three hundred and fifty thousand acres were burned over by fire, and this was greatly exceeded in 1887.

Throughout the entire State, citizens deplore the fearful ravages of forest fires, and their inability either to prevent or to check them.

The causes of forest fires are: Camp fires, hunters, clearing land, malice, Indians.

Camp fires are perhaps the most frequent cause of forest fires.

Hunters leave their camp fires burning in abandoned camps.

Sheepherders build large fires around their camps to frighten away wild animals at night, and are always perfectly indifferent as to the extent to which these fires spread.

Hunters, especially Indians, frequently set fire to the forests in order to drive out game.

Settlers clearing land allow their brush fires to escape into the forest.

Intentional burning of herbage, to improve pasturage. This practice cannot be too greatly condemned. Every year vast tracts of forests are fired in order to hasten the early growth of spring herbage. Such fires do not always consume the old trees, but all undergrowth and seedlings are swept away, and thus not only are the young trees robbed of the natural protection so essential to their growth, which the undergrowth affords, but by the destruction of germinating seedlings, the embryo forests of the future are destroyed.

It is true that the destruction of large bodies of redwood by fire, has not prevented the reproduction of this species by seeds and shoots, still the forests in the interior of the State, when once destroyed by fire, either do not reproduce themselves, or are succeeded by a scrubby growth, principally poplar and small pines, much inferior to the valuable specimens of the original forest.

Although the necessity of checking forest fires is appreciated throughout the State, it would appear that there is no way under the present management of timber lands, in which it can be attained. Nor can those persons guilty of setting the forests on fire be reached and punished.

The damage and permanent injury inflicted on our mountain forests by browsing animals, especially sheep, is immense, and unless checked, threatens their complete extermination. They not only destroy the seedling trees, but often bark the trunk, and injure the vigor of the older trees.

The custom of every summer driving numberless flocks of sheep into our mountain forests, where they remain from four to six months of the year, is an evil that it is impossible to check under our existing laws, notwithstanding that it should be speedily dealt with.

"Illegal timber cutting" has met with more attention, and is far less dangerous to our forest interests, than either of the other two causes of forest destruction just enumerated.

This is perhaps the easiest of forest offenses to deal with, as the stumps of the stolen trees still remain, silent witnesses of the crime.

Here the shake-makers are the principal offenders. They look upon government timber as their own special property, provided by a kind providence to supply their individual wants. They prey entirely upon sugar pines, the most valuable timber in the State outside of the redwoods, and apparently without the least cause for fear of punishment. If shake-makers only felled those trees which they utilize in making shakes, it would be bad enough, but they generally fell from three to six, before one is found that will split straight enough for their purpose.

Timber on government lands is looked upon as common property, to be made use of by any one taking the trouble to cut it.

In the vicinity of settlements and small towns government timber has been very generally used for fencing and for firewood—perhaps the most worthy cause in which timber has been cut illegally.

Sawmills have, to a greater or less extent, cut timber from the government lands adjoining their own private properties. But this has proved to be too dangerous a practice to be indulged in very extensively.

Since the extension of railroads in every direction throughout the State, much timber which was of little marketable value on account of its inaccessibility, has become available, and in the last few years thousands of acres of forests have been bought from the Government, and as it will be shortly converted into lumber, the forest area of the State will be materially lessened.

California is a forest country, and there must be forest laws in a forest country; and the proper formation and enforcement of such laws is of vital importance to the future prosperity of the State.

The present laws, as they relate to Government and State timber lands, are totally inadequate to protect our forests from injury and destruction.

The ownership and control of forests in California has become a problem which requires a speedy solution, and it is of paramount importance, not only to the well-being of the State as a whole, but to each and every citizen of it, that means be adopted to check the destruction of our mountain forests.

The "irrigation question," which has now become generally understood and is acknowledged to be of prime importance to the welfare of the State, depends almost entirely upon the "preservation of our forests."

The "agricultural interests" of California are dependent upon irrigation, and irrigation in turn is dependent upon the constant and steady flow of streams formed by the melting of snow upon our mountains.

These mountains are covered by forests, whose shade, and the obstruction which they offer to sweeping winds, lessen the evaporation and regulate the melting of the snow.

Strip these water-sheds of their forest covering, and the vast quantity of snow which accumulates upon their slopes during the winter months, having no protection from the sun's warm rays in spring and early summer, would quickly melt and precipitate into the streams below an immense volume of water, sweeping with it in its descent the surface soil, gravel, and stones from the mountain sides, and burying rich bottom lands in ruin.

Not only would the initial effects of such floods be great, but the after results would be far more disastrous. For by the sudden melting of the snow, the main resource from which the rivers had been accustomed to draw their supplies having become exhausted, the rivers would diminish to shallow creeks and perhaps entirely disappear.

That forests of greater extent induce rain is a fact not much disputed by authorities on the subject.

The precipitation of moisture upon the northwest coast of the United States is unequaled by any other part of the Continent.

The rainfall in California follows the boundaries of our forests, and is modified by their distribution and density.

The forest wealth of California is enormous, but it is not inexhaustible, and if the ravages from which our forests suffer are not checked, their complete extermination is not improbable.

The general destruction of forests, which has entailed such serious consequences throughout the greater part of Europe, should serve as a lesson by which the people of California should profit. The laws of nature are uniform in their actions, and the history of forests in European countries may be repeated in California.

The public welfare in California demands that the forests at the sources of streams should be protected and preserved. A system which endangers this is necessarily bad, and should be remedied.

There can be no question but that whatever is necessary to the prosperity of a people, and belongs to the people, should be preserved for their public welfare.

In establishing a system of "forestry laws" for California, it is necessary that the citizens of the State have administrative control over its forests.

If the forests of California belonged to the State, it would be within the power and province of the Legislature to provide for their protection.

State control would not mean interference with our "lumber industry," it would not mean encroachment upon the rights of "American citizens," it would not mean an unjust discrimination in favor of any party, clique, or corporation, but it *would* mean: the preservation of property which we have inherited by descent, coming to us from our ancestors, and upon the preservation of which the future of the State and the prosperity of its population depends.

Very respectfully submitted.

H. S. DAVIDSON,
Engineer of the California State Board of Forestry.

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